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09/782,756	02/13/2001	Stevan P. Vasic	7885.5	9702

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/782,756

Applicant(s)

VASIC, STEVAN P.

Examiner

James S. McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 94-117 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 94-117 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/11/05 has been entered.

### ***Amendment***

2. Applicant's submittal of an amendment on 7/11/05 was entered, wherein:

- claims 94-117 are pending;
- claims 1-93 have been canceled; and
- claims 94-117 have been added.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 94, 95, 97, 98, 100-112, and 114-116 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,397,196 (hereinafter "Kravetz").

Regarding **claim 94**, Kravetz discloses a method of providing a payroll advance comprising the steps of receiving from an employee an electronic request for said payroll advance (a user requests a loan); evaluating the eligibility of said employee to receive said payroll advance (see column 4, lines 20-27), wherein said evaluating step is performed substantially without human intervention (see column 4, lines 38-40, "ATM network"); and forwarding said payroll advance to said employee (see columns 4, lines 20-27), wherein said forwarding step is performed substantially without human intervention (see column 4, lines 38-40, "ATM network"); **[claim 95]** wherein said electronic request is received via an automated teller machine and said payroll advance is forwarded to an automated teller machine (see column 4, lines 38-40, "ATM network"); **[claim 100]** wherein said forwarding step is completed via a payroll access resource (via Bank 100 and account 225; see Figure 2); **[claim 101]** wherein said payroll access resource is a financial resource selected from the group consisting of a bank account (account 225, see Figure 2), a credit account, a secondary payroll access account, a shared account, a trust account, a temporary account, a savings account, and a checking account; **[claim 102]** wherein the payroll access resource is an account holding party selected from the group consisting of the employer, a bank (100; see Figure 2), a credit union, and a third-party financial institution; **[claim 103]** wherein said evaluating step substantially determines the amount of money available through said payroll advance (see column 4, lines 28-40); **[claim 104]** wherein the amount of money available through said payroll advance is determined before said receiving step (it is inherent the amount available is determined before it is received); **[claim**

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**105]** wherein the party controlling said evaluating step charges a transaction fee to said employee (“interest”, see column 4, lines 10-11); and **[claim 106]** wherein the party controlling said forwarding step charges a transaction fee to said employee (“interest”, see column 4, lines 10-11).

Regarding **claims 97 and 98**, Kravetz fails to explicitly state when the advance is processed relative to the when wages are earned but the Examiner asserts that it is inherent that Kravetz’s system allows for advances (loans) to be processed at any point in time after registration.

Regarding **claim 109**, Kravetz fails to explicitly state that the advance is divided among a plurality of future wage payments but the Examiner asserts that it is inherent that Kravetz’s system allows for loans to be repaid via as many wage payments as necessary.

Regarding **claims 107,108, 110-112, 114, and 115**, Kravetz discloses a method of providing a payroll advance as set forth in detail above for claims 94, 95, 97, 98 and 100-106.

Regarding claim 116, the Examiner asserts that it is inherent that loan amount available to a user is at least partially based on a relative risk of non-payment during the application process (see paragraph bridging columns 4-5).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 96, 97, 98, 109, 111, and 112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kravetz in view of Official Notice.

Regarding **claim 96**, the Examiner takes Official Notice that communication via the Internet and telephone was old and well known at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kravetz with Internet or telephone communication as well known in the art, because Internet and telephone communication offer high speed and reliable communication platforms with easy accessibility.

As an alternative rejection to the 35 U.S.C. § 102 of **claims 97, 98, 111 and 112** set forth above, the Examiner notes that Kravetz is silent regarding when the advance money is actually earned by the employee. Claims 97 and 111 require that the advance (loan) is processed related to wages that have been earned but not yet paid. Claims 98 and 112 are related to an advance that has not been earned. Therefore, if it is held that Kravetz fails to disclose processing advances (loans) before or after the wages are earned, then it would have been obvious to do so.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kravetz with processing the advance (loan) at any point in time compared to the employee earning the wages as well known in the art, because people need loans at various points and time and granting payroll advances before and after the wages are earned provides greater customer service and flexibility to the employee.

As an alternative rejection to the 35 U.S.C. § 102 of claim 109 set forth above, the Examiner notes that Kravetz is silent regarding repayment of advance (loan) over a plurality of future wage payments. Therefore, if it is held that Kravetz fails to disclose repayment of

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advance (loan) over a plurality of future wage payments, then it would have been obvious to do so.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kravetz with advance (loan) repayment over multiple future wage payments as well known in the art, because loans may be larger than wage payments and therefore need to be paid via a plurality of wage payments. This feature will allow people to borrow more than a single wage payment.

7. Claims 99 and 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kravetz in view of Risaf.

Regarding **claims 99 and 113**, Kravetz fails to explicitly disclose the use of authenticating said electronic request. While ATM's generally require authentication for security, Kravetz is silent.

Risaf teaches the use of a PIN for an ATM (see column 7, lines 50-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kravetz with a PIN as taught by Risaf, because using a PIN improves security.

8. Claim 117 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kravetz in view of article by Rusty Cawley, "New Texas Capital product marries payroll, ATMs" (hereinafter "Cawley").

Regarding **claim 117**, Kravetz fails to explicitly disclose charging for employee for payroll advances before the receiving step.

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Cawley teaches the use of charging nothing for first payroll advance (see page 2, lines 14-15) and \$1 to \$2 for each additional advance.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kravetz with charging for payroll advances as taught by Cawley, because charging for payroll advances helps pay the cost of the service.

### ***Response to Arguments***

9. Applicant's arguments filed July 11, 2005 have been fully considered but they are not persuasive.

All arguments are moot in view of the new grounds of rejection necessitated by Applicant's amendment.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Grossi is cited of interest for disclosing an ATM that allows a cash advance under overdraft protection (see column 5).

Watkins is cited of interest for disclosing method for selecting and processing a payroll deduction plan as a payment option during electronic commerce.

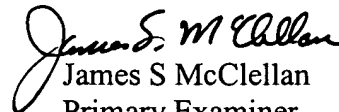
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. McClellan whose telephone number is (571) 272-6786. The examiner can normally be reached on M-F (9:30-6:00).



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James S McClellan  
Primary Examiner  
Art Unit 3627

jsm  
8/16/05